IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.271 of 2004

In

Suit No.2680 of 1995

Equatrek Exports Pvt.Ltd...Plaintiff

V/s

Jagdish Anant Kamat ..Defendant

Shir R.M.Tiwari with Ms T.Dalvi for Plaintiff

R.I.Desai i/b Desai and Diwanji for Defendant

CORAM:S.U.KAMDAR,J.

DATED: 8th February 2005

P.C.:-

. The applicant has taken out the present Chamber Summons for amendment of the plaint as per schedule annexed to the Chamber Summons.

. The learned Advocate for the defendant has opposed the Chamber Summons on the ground that by way of an amendment the plaintiff is seeking to introduce inconsistent plea then the original pleading in the suit. The Chamber Summons is also opposed on the ground of limitation.

. I perused the plaint and the schedule annexed

to the Chamber summons. I do not find that any inconsistent plea is raised by way of amendment in the Chamber Summons. In view of the judgments of the apex Court in the cases of:

.i) (2201) 2 SCC 472 - Ragu Thilak D. John V/s S.Rayappan and Ors. and

.ii) (2004) 6 SCC 415 - Pankaja and another V/s Yellappa (dead) by Lrs. and others the apex Court has taken a view that in the matter of amendment a liberal approach should be adopted even if there are inconsistent pleas the amendment be granted to avoid multiplicity of proceedings.

. As regards the defence of limitation the same can be determined at the time of trial and the issue is accordingly kept open to be determined at the hearing of the suit. The defendant is permitted to file additional written statement in the present Chamber Summons dealing with averments added as and by way of amendment.

. Chamber Summons is made absolute in terms of prayer clause (a). The plaintiff to pay cost of this Chamber Summons to the defendant quantified at Rs.2,000/-.

( S.U.KAMDAR,J.)